IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1068 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPN. - Petitioner(s)

Versus

DHAYABHAI RAMBHAI PATEL - Respondent(s)

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Appearance :

MR SAURABH J MEHTA for Petitioner(s) : 1,
MR ANIL C THAKORE for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/12/2005

ORAL JUDGMENT

1. This petition is directed against the award dated 01.06.2000 passed by the Labour Court, Surat in reference (LCS) No. 427/99 whereby the Labour Court has directed the petitioner to reinstate the respondent on his

original post with continuity of service without backwages. A cost of Rs.5000/- was also awarded to the petitioner corporation.

2. The brief facts of the case are that the respondent was working as a conductor with the petitioner corporation. On 19.02.1997 the respondent was on duty on Vyara-Jhankri route and on checking it was found that the respondent had misappropriated the funds of the petitioner corporation by collecting fare from the passengers without issuing tickets to them. Thereafter, charge-sheet was issued to the respondent to which he submitted his reply and a departmental inquiry was also conducted. Subsequently, on 26.09.1997 a show cause notice was issued to the respondent which was also duly replied and on 09.03.1998 the respondent was put in the basic pay scale of conductor. However, on 03.09.98, the competent authority reviewed its order and issued another show cause notice to the respondent. After respondent duly replied to the show cause notice, a hearing was held on 04.01.1999. However, on 19.01.99 order of dismissal of the respondent from service was passed. Being aggrieved by this order, the respondent raised an industrial dispute which was then referred to the Labour

Court, Surat for adjudication. The Labour Court passed the aforesaid award.

3. Learned counsel for the petitioner contended that the petitioner before passing the order of dismissal has followed all procedure required under the Act. He further contended that the Labour Court failed to appreciate the fact that the respondent as per the default card was involved in misconducts in the past for which he has been warned and lightly punished. The continuance of the respondent in service will affect the image of the petitioner corporation.

4. As a result of hearing and perusal of records, I find that the Labour Court has given cogent and convincing reasons for grant or reinstatement with continuity of service. I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court. However, I am of the view that looking to the gravity of misconduct, the Labour Court while exercising powers under Section 11A of the Act ought to have imposed some penalty. On the overall facts and circumstances of the case, interests of justice will be served by imposing penalty of stoppage of increment with

future effect.

5. In the premises aforesaid, the petition is partly allowed. A penalty of stoppage of one increment with future effect shall be imposed upon the respondent. The award of reinstatement with continuity of service is confirmed. Rule is made absolute accordingly with no order as to costs. Petitioner is directed to comply with the order of the Labour Court and this court within six weeks from today.

(K.S. JHAVERI, J.)

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